

# Texas Department of Insurance **Workers'** **CompUpdate**

*a publication of the Division Of Workers' Compensation volume 1, number 1 December 2005*

## **New Commissioner Leads System Reforms**

THE 79TH LEGISLATURE set a new direction for the workers' compensation system in Texas with the passage of House Bill (HB) 7. The appointment of Albert Betts as the state's first Commissioner of Workers' Compensation is one of many important changes under the bill.

"Albert Betts brings exceptional experience and expertise in this field to his new role at the Texas Department of Insurance," said Governor Rick Perry in announcing the appointment. "I have every confidence that he will lead the Division well as it implements future reforms to the workers' compensation system."

Commissioner Betts, working in consultation with Texas Insurance Commissioner Mike Geeslin, has directed the transition of the former Texas Workers' Compensation Commission to the new Texas Department of Insurance, Division of Workers' Compensation. A workers' compensation steering committee has been named by the two commissioners to coordinate workers' compensation reforms with the overall department.

Commissioner Betts also is reviewing the functions of the Division and creating a strategic management plan as provided in HB 7. The plan is expected to be completed in February 2006. It will contain recommendations from system stakeholders and 10 agencywide staff teams appointed by Commissioner Betts.

The teams are charged with mapping out the Division's future in the areas of : Return to Work; Injured Worker Services; Access, Quality and Cost of Medical Care; Performance-Based Oversight and Assistance; Medical and Benefit Dispute Reso-

lution; Electronic Medical Billing; Rule Prioritization, Development and Tracking; Administration and Support Services; Information Technology; and Self-Insurance Regulation.

Commissioner Betts said stakeholder input is crucial to setting a new direction for the workers' compensation system. Stakeholder meetings were held in October and November to accept comments on pre-proposal drafts of rules (see Page 5) and on the strategic management plan.

"One of our guiding themes in implementing HB 7 has been to listen to stakeholders and use their input where it is appropriate," he said, adding that communication with legislators also is a priority.

HB 7 requires the Division to develop methods to evaluate its effectiveness in implementing the legislation as well as other state laws. It also requires the Division to study a reorganization of its programs to improve performance. The strategic management plan will serve as a guide to fulfill the mandates of HB 7.

Besides agency transition and strategic planning, Commissioner Betts said the Division is focused on rulemaking to implement HB 7 and on initiating performance-based oversight of system participants.

**"One of our guiding themes in implementing House Bill 7 has been to listen to stakeholders and use their input where it is appropriate."**

**Albert Betts**  
*Commissioner of Workers' Compensation*

### **INSIDE**

**Workers' Compensation Health Care Networks .... 3**  
**Division Ranks Rulemaking Priorities ..... 5**  
**Employer Involvement Key to Return to Work .... 10**

# from the commissioner

THE DIVISION OF WORKERS' COMPENSATION is moving forward to implement House Bill 7 and it is my privilege and honor to have been appointed Commissioner to lead the Texas workers' compensation system in a new direction.

I have five main goals for the Division of Workers' Compensation:

- Provide appropriate income benefits that are paid in a timely manner.
- Get injured workers back to work when they are physically able.
- Maintain and improve the quality of health care given to injured workers.
- Reduce medical costs in the workers' compensation system.
- Ensure that income and medical benefit disputes are being resolved fairly and in a timely manner.

Another goal is to ensure the adequacy of health care networks in treating injured workers while also providing access to quality health care for injured workers outside of networks. I also believe the Division should promote workplace safety to reduce accidents and apply new technologies to claims processing to increase efficiency and reduce paperwork. I will work in tandem with Texas Insurance Commissioner Mike Geeslin to achieve all of these goals, especially those involving health care networks.

Communication with system stakeholders is one of my top priorities. I am inviting stakeholder participation in all rulemaking and planning initiatives; current information will be made available on the Division website to promote involvement in the process. Also this new publication, *Workers' CompUpdate*, will be published quarterly to reach stakeholders with important information and to lend perspective about my overall direction for the Division.

The story of the success of workers' compensation system reforms in Texas cannot be written without the active involvement of injured workers, health care providers, insurance carriers and employers. There are many places in the process that allow for stakeholder involvement. One immediate opportunity is in the drafting of the Division's Strategic Management Plan. I hope that all system stakeholders will take an active interest in this plan for the future and help to build a workers' compensation system that can be a model for the nation.

**Albert Betts**

*Commissioner of Workers' Compensation*

---

This publication is available for download as an Adobe Acrobat PDF file at:  
**[www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html)**, under "News and Publications."

Contact **Workers' CompUpdate** at:  
Texas Department of Insurance,  
Division of Workers' Compensation  
Public Information/MS-3B  
7551 Metro Center Drive, Ste. 100  
Austin, TX 78744-1609  
(512) 804-4200  
(512) 463-4201 fax

**Workers' CompUpdate** is published quarterly. To be included on the publication e-mail distribution list, send a request to:  
**public.information@tdi.state.tx.us**

Direct questions or suggestions about newsletter content to:  
(512) 804-4200  
or write:

**Workers' CompUpdate**  
MS-3B, 7551 Metro Center Drive,  
Ste. 100  
Austin, TX 78744-1609

The staff that prepares this newsletter has no role in proposing, drafting, editing, or approving TDI rules or policies or interpreting statutes. **Workers' CompUpdate** should not be construed to represent the policy, endorsement or opinion of the Commissioner of Insurance, the Commissioner of Workers' Compensation or the Texas Department of Insurance. By necessity, summaries of proposed and adopted rules cannot explain their full complexity. Readers interested in complete information about administrative rules should consult the versions published in the *Texas Register*.

To the best of the staff's ability, information presented in this newsletter is correct as of the publication date, but scheduled dates and proposed rules and amendments may change as the adoption process goes forward.

**Workers' CompUpdate** is available online at:  
**www.tdi.state.tx.us/wc/indexwc.html**  
under "News and Publications."

## Workers' Compensation Health Care Networks

TEXAS INSURANCE COMMISSIONER Mike Geeslin has signed rules to create workers' compensation health care networks as provided in House Bill (HB) 7. The rules include application requirements for networks to be certified by the Texas Department of Insurance.

Following is a summary of changes in health care delivery in the workers' compensation system

mandated in HB 7. The changes are generally explained for workers who are treated within a health care network compared to workers who are treated out of network.

The networks rules are posted on the agency website at: **www.tdi.state.tx.us/rules/index.html** under "Rules-Proposed/Adopted." In addition, Frequently Asked Questions (FAQs) about networks are posted at: **www.tdi.state.tx.us/wc/wcnet/index.html**.

### Choice of Treating Doctor

An injured worker who is not subject to the requirements of a network (non-network) may choose a treating doctor from the Approved Doctor List (ADL). An injured worker who lives in the network's service area and receives notice of network requirements must choose his or her treating doctor from the network's list of treating doctors. If an injured worker is receiving treatment from a doctor at the time the employer chooses a network plan, the injured worker must choose a network doctor within 14 days or the network will assign a treating doctor for him/her. In addition, if the injured worker has health coverage under an HMO plan, the injured worker's out-of-network HMO doctor may continue to treat the injured worker, if the doctor agrees to the terms and conditions of the network.

*continued on Page 4*

### Stakeholder Meeting:

### Workers' Compensation Health Care Network Workshop

**8:30 a.m. to 12:30 p.m.**  
**Wednesday, December 7, 2005**

**Audiostream available at:**  
**www.tdi.state.tx.us**

# Workers' Compensation Health Care Networks

*continued from Page 3*

## **Billing and Reimbursement**

Billing and reimbursement for non-network treatments and service will usually be in accordance with the fee guidelines adopted by the Division. Billing and reimbursement for in-network treatments and services will be in accordance with the provisions of the network contract.

For both non-network and in-network billing, a health care provider must submit a medical bill within 95 days of the date of service. A health care provider who fails to submit a medical bill within 95 days forfeits the right to reimbursement.

## **Preauthorization**

Commissioner Betts adopted emergency amendments to Rule 134.600, Preauthorization, Concurrent Review, and Voluntary Certification of Health Care. The Division will be proposing amendments to Rule 134.600 for permanent adoption to meet new requirements in HB 7.

The amended rule will be used to determine preauthorization requirements and processes for non-network health care. In-network preauthorization will be conducted in accordance with the network rules adopted by Commissioner Geeslin. Under these rules, each network will determine

which services will require preauthorization.

## **Treatment and Return-to-Work Guidelines**

HB 7 addresses the use of treatment and return-to-work guidelines for both non-network and in network claims. The treatment guidelines and individual treatment protocols must be evidence-based, scientifically valid and outcome-focused. In addition, treatment guidelines must be flexible enough to allow deviations from the norms when justified on a case-by-case basis. The Division will adopt treatment and return-to-work guidelines for non-network services. Each network may adopt treatment and return-to-work guidelines for their network.

## **Medical Dispute Resolution**

Medical necessity and fee disputes for non-network treatments and services will be conducted in accordance with the rules published by the Division. The Texas Workers' Compensation Act removed the ability to appeal a medical dispute findings and decision to the State Office of Administrative Hearings (SOAH). Appeals of Division medical dispute findings and decisions must now go to Travis County District Court.

## **Structure of New Division**

THE TEXAS DEPARTMENT OF INSURANCE, Division of Workers' Compensation was created on September 1, 2005, under Chapter 402 of the Texas Labor Code as amended in House Bill (HB) 7 by the 79<sup>th</sup> Legislature. The Division is administered by a single Commissioner of Workers' Compensation appointed by the Governor.

The Commissioner of Workers' Compensation has all executive authority over the functions of the Division, including rulemaking. However, the Commissioner of Insurance may provide advice, research and comment regarding adoption of rules by

the Commissioner of Workers' Compensation. Also, the Commissioner of Insurance has implemented policies that clearly separate the responsibilities of the Division and the Department (Commissioner's Order # 05-0924).

While the statutory designation of divisions within the Division was removed under HB 7, existing customer service and dispute resolution services through regional offices were unchanged. The Division currently includes a Central Office and Records Retention Center in Austin as well as 24 regional offices around the state.

# Division Ranks Top Rulemaking Priorities

IMPLEMENTATION OF HOUSE BILL 7 requires the Texas Department of Insurance, Division of Workers' Compensation to develop rules and new initiatives outlined in the bill. In order to minimize confusion and to allow stakeholders an opportunity to carefully review and comment on proposed draft rules, the Division has established a prioritization for focusing on the rulemaking projects.

This summer, the Division requested stakeholder input on rule prioritization. Based on this input and recognizing certain statutorily mandated timeframes, the Division has assigned the highest rulemaking priority to the following category of rules:

- Rules that were identified as high priorities by stakeholders through the request for input that was distributed in August 2005;
- Rules that relate to the provision of medical care in and outside of certified networks; and
- Rules that are required by statute and must be adopted by a specific statutory timeframe.

Posted on the Division website at [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Rules/Rules Under Development"

is a list of high priority rules and proposed dates for release of drafts for stakeholder input and initial comment as well as a date for stakeholder meetings to hear public comment on the draft rules.

Opportunities for stakeholder input will be available throughout the rule development process. On some proposed draft rules, we will provide stakeholders with draft rule language for comment and feedback, while on others, we will seek stakeholders' input on options for implementation of statutory provisions prior to drafting proposed rule language. In all cases, we are receptive to feedback from stakeholders.

Emergency rules were signed by Commissioner Albert Betts on November 3, 2005 related to preauthorization and medical billing to effectuate the September 1, 2005 statutory changes. Nonetheless, stakeholder comment and input is key for development of permanent rules in the near future.

Overall, stakeholder input and comments are key to successfully implementing the workers' compensation system reform. This is your opportunity to help shape the direction of the system going forward.

## Division of Workers' Compensation Rulemaking Priorities

The Division identified the following high-priority rules to meet the statutory requirements of House Bill 7 and in response to stakeholder input. For more information on Division rule development, visit [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Rules/Rules Under Development."

- Benefit Review Conference (BRC) - Interlocutory Order Process
- Designated Doctor/RME Changes (includes training requirements for designated doctors)
- Disability Management - Treatment and Return-to-Work Guidelines, Treatment Planning and Preauthorization
- Electronic Medical Billing
- Examinations to Define Compensable Injury/Diagnosis
- Medical Billing Timeframes \*
- Peer Review Doctor Requirements
- Preauthorization - addition of PT, OT, and treatment for injuries/diagnoses not accepted by insurance carrier \*
- Return-to-Work (RTW) Pilot Program

\* *Emergency rules signed November 3, 2005*



# Texas Job Injury, Illness Rates Lower Than U.S.

IN 2004, THE TEXAS INCIDENCE RATE OF nonfatal workplace injuries and illnesses was lower than the national average. The Texas incidence rate for 2004 was 3.7 injuries and illnesses per 100 full-time workers, down from 4.0 in 2003. The national incidence rate was 4.8.



This is the 15th consecutive year that the Texas rate has been lower than the U.S. rate.

The Texas injury and illness rate information was obtained from a survey conducted by the Texas Department of Insurance, Division of Workers' Compensation in cooperation with the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor. The rates are based on survey findings from approximately 9,000 private industry establishments in Texas, and data are categorized by North American Industry Classification System (NAICS) codes. Rates for 2004 were released on November 17, 2005.

Texas rates were below the national rates in all major industries but real estate and rental and leasing.

In Texas, incidence rates decreased or remained unchanged from 2003 in most

compared to 3.4 in 2003), real estate and rental leasing (4.3 in 2004 versus 3.8 in 2003), educational services (up to 1.8 in 2004 from 1.7 in 2003), and accommodation and food services (3.7 in 2004, while the rate was 3.4 in 2003).

In manufacturing, the industries with the highest rates were animal (except poultry) slaughtering (15.5); rendering and meat byproduct processing (13.0); motor vehicle body and trailer manufacturing (12.9); soft drink manufacturing (12.3); foundries (11.7); forging and stamping (11.1); and meat processed from carcasses (10.4).

The highest rates in the service providing sector were seen in couriers and messengers (13.1); water, sewage and other systems (12.9); air transportation (12.5); beer, wine, and distilled alcoholic beverage merchant wholesalers (9.7); hospitals (8.5); building material and garden equipment and supplies dealers (7.2); and nursing and residential care facilities (7.1).

In the construction sector, the framing contractors and electrical contractors industries experienced the highest rates with 5.9 and 5.8 respectively.

The Division collects survey data in order to calculate the annual injury and illness rate for Texas to assist employers, safety professionals, and policymakers in identifying occupational safety and health issues in the state. Likewise, the Division's Workers' Health and Safety programs provide various safety and health services to help reduce injuries and illnesses in the workplace through accident and illness prevention.

Additional Texas fatal and nonfatal occupational injury and illness data are available by contacting the Division's Safety Information Systems at (512) 804-4599 or [InjuryAnalysis@tdi.state.tx.us](mailto:InjuryAnalysis@tdi.state.tx.us). Details about the national BLS injury and illness data can be found at [www.bls.gov/iif/oshsum.htm](http://www.bls.gov/iif/oshsum.htm).

## Nonfatal occupational injury and illness incidence rates per 100 full-time workers, private industry, U.S. and Texas, 2004

|          |     |
|----------|-----|
| National | 4.8 |
| Texas    | 3.7 |

(Source: U.S. Department of Labor Bureau of Labor Statistics; additional tables and charts at [www.tdi.state.tx.us/wc/news1/newsreleases/news051122.html](http://www.tdi.state.tx.us/wc/news1/newsreleases/news051122.html))

major industries, although 6 percent increases were seen in both financial activities and leisure and hospitality.

At a more detailed industry level, rate increases occurred in utilities (4.7 in 2004

## Guidance Offered on Dispute Proceedings

TEXAS INSURANCE COMMISSIONER Mike Geeslin issued Bulletin No. B-0040-05 to provide guidance concerning procedural changes for dispute resolution implemented on September 1, 2005. The changes were included in House Bill (HB) 7 passed by the 79<sup>th</sup> Legislature.

The bulletin is intended to help parties with the new processes pending the adoption, amendment, or repeal of rules by Commissioner of Workers' Compensation Albert Betts.

HB 7 requires the Division to publish a list of information that is most useful to help resolve income benefits disputes. A preliminary list of these resources is available at [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Benefits Dispute Resolution."

HB 7 amended Section 410.023 of the Texas Labor Code to require that a party requesting a Benefit Review Conference (BRC) **must** provide documentation to the Division showing prior attempts to resolve the disputed issues. Parties to a dispute may use Box 7 on DWC Form-45, Request for a Benefit Review Conference, for this purpose.

HB 7's amendment to Section 410.005 of the Texas Labor Code specifically allows the Division to conduct BRCs telephonically

with the injured worker's agreement. If the injured worker is agreeable to a telephone BRC, the party requesting telephonic attendance should contact the presiding Benefit Review Officer (BRO) for permission to appear telephonically. The Division continues to have the discretion to determine when a telephone BRC will be held.

An amendment to Section 410.026 of the Texas Labor Code provides that a BRO may only schedule an additional BRC if:

- the BRO determines that any available information pertinent to the resolution of a disputed issue was not produced at the initial BRC; and
- if a second BRC has not already been conducted on the disputed issue.

The presiding BRO at a BRC no longer has the authority to issue an interlocutory order regarding benefits. Interlocutory orders are currently processed centrally by the Division. Also, the report of disputed issues no longer includes a recommendation from the presiding BRO on the outcome of the unresolved disputed issues.



## Division Improves Forms Processing

THE DIVISION IMPLEMENTED a scanning and imaging solution to replace existing paper files and incoming mail with electronic documents stored in a document management system. Recently adopted bar code requirements for all Division forms assist staff in scanning and imaging efforts by automating the process that tells the computer system what type of document is being scanned.

Bar codes allow the Division to automatically route information to multiple staff based on the type of form that is scanned.

All Division forms require bar codes; medical billing forms do not. Insurance carriers that generate their own Division forms must add the bar codes that meet Division specifications. A form developer kit is available from the Division website at [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Forms."

Bar coding and the implementation of a document management system are a part of the Division's efforts to use technology to streamline processes and reduce paper in the workers' compensation system.

## Commissioner Betts Signs Emergency Rules

On November 3, 2005, Commissioner of Workers' Compensation Albert Betts signed and submitted to the *Texas Register* emergency rules regarding medical billing timeframes and preauthorization pursuant to the authority granted in House Bill (HB) 7 adopted by the 79th Legislature.



The medical billing timeframes emergency rules implement HB 7's expedited

timeframes for submission of medical bills and a carrier's audit of those bills.

Effective December 1, 2005, the preauthorization emergency rule amends the existing rule to accommodate the addition of physical therapy and occupational therapy to the list of services requiring preauthorization and to allow for the provisions of Texas Labor Code Section 408.0042.

Emergency rules are effective for 120 days from the date filed with the *Texas Register*. The rules may be extended once for 60 days. To view the emergency rules, go to [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Rules."

## Pilot Project to Reimburse Small Employer RTW Costs

House Bill (HB) 7 provides for the creation of a return-to-work pilot program for small employers to promote early and sustained return to work of an injured worker. The program will be funded by administrative penalties received by the Division, not to exceed \$100,000 annually. Employers with 2 to 50 employees will be eligible to file an application to be reimbursed for expenses they have paid for to bring their employee back to work early.

The Division posted a pre-proposal draft rule to implement the pilot program on its website on October 11 and accepted comments during a public hearing on Oc-

tober 25. A proposed rule was to be posted on the website in early December.

The pilot project fund will reimburse small employers for up to \$2,500 for qualified expenses to allow employees to perform modified or alternate work within doctor-imposed work restrictions. Eligibility criteria for reimbursement will be determined in the final adopted rules. The final rule is expected to be effective in early 2006. For more information, please visit [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Return to Work" or contact the Division's RTW Services at (512) 804-5000.

## Denton County Man Enters Plea in Deception Case

A Denton County man pleaded guilty to a felony charge of securing execution of a document by deception following a Denton County District Attorney investigation which was assisted by the Division of Workers' Compensation. According to court documents, John E. Underwood was working as a real estate agent and drawing benefits for his workers' compensation injury. His agent license had been paid for by the Texas Rehabilitation Commission.

Underwood reached a plea agreement in Denton County District Court. He was placed on four years probation and fined \$500. He also was ordered to pay a total of \$26,356 in restitution and other fees, and to perform 160 hours of community service.

For more general information about Division fraud and administrative enforcement, visit [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Fraud and Enforcement."

## Local Division Offices Promote Community Outreach

Division field office managers have initiated an outreach campaign to promote customer service. The goal is to educate system participants and the general public about the workers' compensation system in Texas. Current presentations include a

*continued on following page*



*continued from previous page*

summary of changes to the workers' compensation system under House Bill (HB) 7.

Natalie Messer, manager of the Division's San Antonio office, said the target audience for the outreach effort includes health care providers, attorneys, insurance carriers, adjusters, human resource managers, case managers, employers, workers, safety and risk managers, trade associations, unions, and others. Messer said presentations can be made in both English and Spanish.

Public outreach services can be requested through the Division's Speakers' Bureau by calling (512) 804-4578 or by e-mailing [TEDTraining@tdi.state.tx.us](mailto:TEDTraining@tdi.state.tx.us). For more information on seminars and conferences, visit the Division's web page at [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Seminars and Education."

### **Reporting Workers' Comp Insurance Fraud is Mandatory**

House Bill (HB) 2388 was passed by the 79th Legislature to strengthen the Texas Department of Insurance Fraud Unit by ensuring prompt reporting and allowing for the prosecution of more fraudulent acts.

The bill amends Section 107.051 of the Texas Insurance Code to require that a report be made to the Department within 30 days by a person or entity who determines or suspects insurance fraud has been or is about to be committed. For more information on required fraud reporting, see Commissioner's Bulletin No. B-0046-05.

To make a report, use TDI's online fraud report form or download and print a fraud report form and e-mail the completed form as an attachment to: [FraudReport@tdi.state.tx.us](mailto:FraudReport@tdi.state.tx.us). The report form is located at [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Fraud and Enforcement."

The web page also includes information about fraud indicators for employers, providers, carriers and workers.

### **Workplace Safety Resources for Employers**

The Division's Workers' Health and Safety programs provide many services to employers to help them prevent occupational injuries and illnesses. These resources are available to all employers, regardless of whether or not they are subscribers to workers' compensation insurance. Visit [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Safety Resources," or call (800) 687-7080.



### **Tracking System Changes for Injured Workers**

The Department and Division are planning several communications efforts to explain workers' compensation system changes to injured workers. The plan will include a one-page summary of changes provided for in House Bill (HB) 7, especially the creation of injured worker health care networks and the functions of the Office of Injured Employee Counsel, in cooperation with the Public Counsel to be appointed to oversee the office.

### **Improper Use of Division Name Subject to Penalties**

Under House Bill (HB) 7, civil and administrative penalties are statutorily authorized for knowingly using or causing to be used the Division's name and logo, the name and initials of TDI, or any combination of the words "Texas" and "Workers' Compensation" by a person offering or performing workers' compensation services in the state. For more information, see Commissioner's Bulletin No. B-0034-05.

---

This publication is available for download as an Adobe Acrobat PDF file at: [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html), under "News and Publications."

# Employer Involvement Key to RTW Success

WELL-ORGANIZED RETURN-TO-WORK (RTW) programs can benefit employers with both reduced workers' compensation insurance premiums and improved employee morale. Managers of three programs in Texas agree, however, that return-



to-work success depends on employer communications with both employees and health care providers during the treatment and re-

covery of an injured employee.

During a presentation at the 15th Annual Texas Workers' Compensation Educational Conference in Austin this summer, the three program managers discussed their experience with RTW in three unique settings. The presenters were:

- Cindy Grant, PHR, Risk Manager for Airgas-Southwest in Corpus Christi
- James Huckaby, MS, ARM-P, Director of Risk Management for the Mesquite Independent School District
- Sam J. McMurry, MS, ARM, Workers' Compensation for Lockheed Martin Corporation in Fort Worth

The presenters were introduced by Virginia May, Director of RTW Services for the Texas Department of Insurance, Division of Workers' Compensation. May said RTW programs fit into a larger strategy for workplace disability management.

"Having a comprehensive, effective safety and health program in place is the number one defense against workers' compensation costs, in order to help prevent an injury in the first place," May said. "If an injury does occur, then there are a number of steps that can be taken to diminish or mitigate your losses. Among these steps, a critical element is a return-to-work program."

## Small Employer

Grant said Airgas-Southwest, which transports industrial gas cylinders, employs about 600 workers in 60 different locations in Texas and New Mexico. Almost all of

the company's locations have 10 or fewer employees, she said, creating logistical problems for monitoring workplace safety and reporting worker injuries in a timely fashion.

Prompt treatment of workplace injuries is a part of Airgas-Southwest's "very aggressive" RTW policy, Grant said. Managers must accompany workers on their first visit to a doctor's office to explain the company's policies.

"We are agreeable that we will work with any restrictions ordered by a doctor, short of complete bed rest," she said. "If the restriction is to work only one hour a day and not lift more than 25 pounds, we will accommodate that."

Grant said injured workers are brought back to work to perform a variety of tasks as soon as they are able. These assignments can include everything from office filing to briefing a replacement driver on truck delivery routes. By providing these alternative work assignments, she said Airgas-Southwest has seen employees coming back to work faster and returning more rapidly to full health.

Grant said her company has seen a drop in workers' compensation insurance costs of about \$650,000 over the past three years since implementing safety training including a RTW program.

## Medium Employer

The 4,900-employee Mesquite ISD also has recorded significant savings in workers' compensation costs over the last 13 years, Huckaby said. He attributes 55 percent of the \$18 million decline in costs during that period to RTW efforts.

"Return to work is the absolute cornerstone of a successful workers' compensation program," he said. "No other cost containment measurement will have a greater impact on savings."

Like many employers, Huckaby said the Mesquite ISD's old philosophy regarding getting injured workers back on the job

*continued on following page*

*continued from previous page*

was “full duty or off work.” To change that philosophy, he said supervisors and employees had to be retrained.

First, he said supervisors were trained to take responsibility for the safety and rehabilitation of workers on the job under their supervision.

“Every supervisor is a stakeholder in the success of our return-to-work program by managing accidents and injured employees that are in their operation,” Huckaby said.

Secondly, employees that may have objected to fellow workers earning full pay for “light duty” were educated that those workers were still helping to carry part of the workload as long as they were at work. This met Huckaby’s goal for the program to answer the question for management, supervisors and employees: “How does this program personally benefit me?” RTW has now become an employment benefit in the district.

“Employees now realize ‘If I’m hurt at work, I’ll get my full pay,’” Huckaby said.

Effective communication with treating doctors also has been a key to the success of the Mesquite ISD, which has its own physician Preferred Provider Organization for its employees. Huckaby concluded with information about how the savings for the district due to the RTW program over the past 13 years have been a savings for the taxpayers of the Mesquite ISD.

### **Large Employer**

McMurry said employee supervisors at Lockheed Martin Corp. also discouraged injured employees from returning to work prior to the start of a RTW program about 14 years ago. The Fort Worth government contractor currently has about 16,000 employees.

He said the cost of workers’ compensation claims at Lockheed began to attract the scrutiny of government contract auditors before RTW began.

“The question was ‘why have a (RTW)

program at all?’” he said. “The answer was cost and concern for the employees.”

McMurry said “aggressive timing” for treating worker injuries and providing quality health care are two strong points of the Lockheed Martin program. The company has its own, onsite health care facilities and staff, making the involvement of the employer with treating doctors a convenient step.

“Even if you use a local clinic, don’t just send people to it,” McMurry said. “Become a partner with the employee. Go talk to the doctor and invite them to the workplace.

“Make the doctors part of your team and make sure that they understand that you want your people back and that you’re going to work with them to do what’s necessary to bring them back.”

Offering modified or transitional duty assignments is essential, he said. In most cases, it is less expensive for the employer to bring an employee back to work at a diminished capacity than to continue to pay workers’ compensation benefits for them.

McMurry demonstrated this by providing examples of the total costs of having an employee out of the workplace rather than the employee returning to work in some meaningful work capacity. From a management standpoint, he illustrated an answer to the question: “How productive does an employee have to be to make it worthwhile to bring them back to work?”

(The presentation titled “Successful Workers’ Compensation Return to Work Programs” can be viewed online at the Division website at: [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under “Seminars and Education.”)

**“Return to work is the absolute cornerstone of a successful workers’ compensation program.”**

**James Huckaby, MS, ARM-P**  
*Director of Risk Management,  
Mesquite Independent School District*

# division outreach calendar

The Division of Workers' Compensation provides training to system stakeholders as well as presentations to the general public and state agencies. Requests for training and presentations can be e-mailed to [TEDTraining@tdi.state.tx.us](mailto:TEDTraining@tdi.state.tx.us). The following types of programs are currently available:

- **Effective Return to Work Practices for Employers, Health Care Providers**

More information, call (512) 804-4804 or e-mail [rtw.services@tdi.state.tx.us](mailto:rtw.services@tdi.state.tx.us)

- **Workers' Compensation System Changes Under House Bill 7**

More information, call (512) 804-4434 or e-mail [TEDTraining@tdi.state.tx.us](mailto:TEDTraining@tdi.state.tx.us)

- **Public Outreach to State Agencies**

More information, call (512) 804-4434 or e-mail [TEDTraining@tdi.state.tx.us](mailto:TEDTraining@tdi.state.tx.us)

- **Occupational Health & Safety Training**

More information or to register, call (512) 804-4610. Register online at:  
[www.tdi.state.tx.us/wc/services/employers.html](http://www.tdi.state.tx.us/wc/services/employers.html) under "Regional Training Seminars."

- **Billing and Reimbursement Training for Health Care Providers**

More information, call (512) 804-4800 or e-mail [MedicalBenefits@tdi.state.tx.us](mailto:MedicalBenefits@tdi.state.tx.us)

**Online Calendar at:**

**[www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) under "Seminars & Education"**

**Texas Department of Insurance**

Division of Workers' Compensation  
7551 Metro Center Drive, Ste. 100  
Austin, TX 78744

Presorted Standard  
U.S. Postage Paid  
Austin, Texas  
Permit No. 1613